

ORDINANCE No.

114090

COUNCIL BILL No.

106851

AN ORDINANCE, correcting errors and omissions in Ordinance 114057 which amended policies and procedures to implement the State Environmental Policy Act Rules (WAC 197-11), Ch. 25.05 of the Seattle Municipal Code, and declaring an emergency therefore.

The City of Seattle--Legis

REPORT OF COMM

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____
report that we have considered the same and respectfully recon

COMPTROLLER FILE No. _____

Introduced:	By:
Aug 8, 1988	Galle
Referred:	To:
Aug 8, 1988	Full Council
Referred:	To:
Referred:	To:
Reported:	Second Reading:
Third Reading:	Signed:
Presented to Mayor:	Approved AUG 15 1988
Returned to City Clerk:	Published:
AUG 15 1988	
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

U85047

Committee Chair

#3
C.B. 106851

ORDINANCE 114090

1 AN ORDINANCE, correcting errors and omissions in Ordinance 114057
2 which amended policies and procedures to implement the State
3 Environmental Policy Act Rules (WAC 197-11), Ch. 25.05 of the
4 Seattle Municipal Code, and declaring an emergency therefore.

5 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

6 Section 1. Seattle Municipal Code, Section 25.05.680, Appeals, as
7 amended by Ordinance 114057, is hereby amended to read as follows:

8 25.05.680 APPEALS.

9 (See WAC 197-11-680, RCW 43.21C.060, 43.21C.075, and 43.21C.080).

10 (1) Master Use Permits. For proposals requiring a master use permit
11 under SMC Chapter 23.76; Procedures for Master Use Permits and Council
12 Land Use Decisions; SEPA appeal procedures shall be as provided in
13 Chapter 23.76.

14 (2) Appeal to Hearing Examiner of Decisions Not Related to Master
15 Use Permits.

16 (a) The following agency decisions on proposals not requiring a
17 master use permit shall be subject to appeal to the Hearing Examiner
18 by any interested person (~~on proposals not requiring a master use per-~~
19 ~~mit~~) as provided in this subsection:

20 (i) Threshold determination. On appeal of a threshold
21 determination, a party may also challenge the preliminary deter-
22 minations.

23 (ii) Adequacy of the final EIS as filed in the SEPA Public
24 Information Center. Notice of all decisions described in this subsec-
25 tion shall be filed promptly by the responsible official in the City's
26 SEPA Public Information Center.

27 (b) An appeal shall be commenced by the filing of a notice of
28 appeal with the Office of the Hearing Examiner no later than the fif-
teenth day following the filing of the decision in the SEPA Public

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1 Information Center or publication of the decision in the City official
2 newspaper, whichever is later. The notice of appeal shall set forth
3 in a clear and concise manner the alleged errors in the decision.
4 Upon timely notice of appeal the Hearing Examiner shall set a date for
5 hearing and send notice to the parties. Filing fees for appeals to
6 the Hearing Examiner are established in Section 3.02.125.

7 (c) Appeals shall be considered de novo and limited to the issues
8 cited in the notice of appeal. The determination appealed from shall
9 be accorded substantial weight and the burden of establishing the
10 contrary shall be upon the appealing party. The Hearing Examiner
11 shall have authority to affirm or reverse the administrative decisions
12 below, to remand cases to the appropriate department with directions
13 for further proceedings, and to grant other appropriate relief in the
14 circumstances. Within fifteen (15) days after the hearing, the
15 Hearing Examiner shall file and transmit to the parties written find-
16 ings of fact, conclusions of law, and a decision.

17 (d) The Hearing Examiner is authorized to promulgate rules and
18 procedures to implement the provisions of this Section. The rules
19 shall be promulgated pursuant to Chapter 3.02 of this code.

20 (e) If the agency has made a decision on a proposed action, the
21 Hearing Examiner shall consolidate any allowed appeals of procedural
22 and substantive determinations under SEPA. For example, an appeal of
23 the adequacy of an EIS must be consolidated with an appeal of the
24 agency's decision on the proposed action, if both appeals are allowed
25 by ordinance.

26 (3) Appeal To The City Council.

27 (a) Any decision of the Hearing Examiner or of any other
28 authorized official or body concerning the approval, conditioning or
denial of proposals pursuant to ~~(on proposals not requiring a master
use permit)~~ Section 25.05.660 (substantive authority and mitigation)
on proposals not requiring a master use permit may be appealed to the
City Council according to the procedures and criteria set forth in
this subsection.

1 (b) An appeal to the City Council may be filed only by a party to
2 the hearing before the Hearing Examiner or other authorized official
3 or body. The appeal shall be filed with the City Clerk no later than
4 the fifteenth day after the date the decision appealed from is filed
5 with the SEPA Public Information Center.

6 (c) Any person who supports the responsible official's decision
7 regarding the approval, conditioning, or denial of a proposal pursuant
8 to Section 25.05.660 may become a party to the appeal hearing before
9 the Hearing Examiner or other authorized official or body by
10 requesting intervenor status. Written requests for intervenor status
11 must be filed with the Hearing Examiner not less than five days before
12 the date of the hearing. In their written request, intervenors shall
13 indicate the grounds for their support of the responsible official's
14 decision, including grounds not relied upon by the responsible official.
15 Intervenors may provide testimony at the hearing regarding the
16 grounds for their support of the decision as specified in their written
17 request. Individuals in support of the responsible official's
18 decision who do not request intervenor status shall not have the right
19 to appeal the Hearing Examiner's decision to the City Council pursuant
20 to Subsection 3 of this Section.

21 (d) The Council shall accept for review those appeals which raise
22 issues regarding: (i) Council intent with respect to interpretation
23 of the City's substantive SEPA policies; or ii) the sufficiency or
24 appropriateness of mitigation or denial of a proposal.

25 (e) The City Council's review on appeal shall be limited to the
26 issues identified under subsection (d), including issues of factual
27 dispute. The Council's review shall be based upon the record from the
28 hearing below; provided (however) that the City Council Committee may
allow oral or written arguments and may permit the record to be
supplemented; and, provided further, that members of the Committee or
of the full Council may make a site visit.

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1
2 (f) Findings of fact in the Hearing Examiner's decision and
3 discretionary determinations regarding the sufficiency of and appro-
4 priateness of mitigation or denial shall be accorded substantial
5 weight and shall be accepted by the Council unless clearly erroneous.
6 The burden of establishing the contrary shall be upon the appealing
7 party.

8 (g) The City Council may affirm or reverse the administrative
9 decisions below, remand cases to the appropriate department with
10 directions for further proceedings, or grant other appropriate relief
11 in the circumstances. The City Council is authorized to promulgate
12 rules to implement the provisions of this section pursuant to the
13 Administrative Code (SMC Chapter 3.02).

14 ~~(3)~~(4) Judicial Appeals.

15 (a) SEPA authorizes judicial appeals of both procedural and
16 substantive compliance with SEPA.

17 (b) When SEPA applies to a decision, any judicial appeal of that
18 decision potentially involves both those issues pertaining to SEPA
19 (SEPA issues) and those which do not (non-SEPA issues). RCW
20 43.21C.075 establishes time limits for raising SEPA issues, but says
21 that existing statutes of limitations control the appeal of non-SEPA
22 issues. The statute contemplates a single lawsuit, but allows for the
23 SEPA and non-SEPA portions of that lawsuit to be filed at different
24 times.

25 (c) If there is a time limit established by statute or ordinance
26 for appealing the underlying governmental action, then appeals (or
27 portions thereof) raising SEPA issues must be filed within thirty (30)
28 days after the agency gives official notice (see subsection (5) of
this section for content of official notice).

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1 (d) In any instance where subsection (c) of this subsection
2 allows the SEPA portion of an appeal to be filed after the time limit
3 established by statute or ordinance for appealing the underlying
4 governmental action, some judicial action must be filed within the
5 time set by statute or ordinance. That action may be later amended to
6 raise SEPA issues within thirty (30) days after the agency gives offi-
7 cial notice (see subsection (5)(6) of this section). In addition,
8 where SEPA issues were first raised during an administrative appeal,
9 any person desiring to raise SEPA issues by judicial appeal must sub-
10 mit a notice of intent to do so with the responsible official of the
11 acting agency with the time limit set by statute or ordinance for
12 appealing the underlying governmental action.

13 (e) The notice of action procedures of RCW 43.21C.080 may still
14 be used. If this procedure is used, then the time limits for judicial
15 appeal specified in RCW 43.21C.080 shall apply, unless there is a time
16 limit established by statute or ordinance for appealing the underlying
17 governmental action. If so, the time limit for appeal of SEPA issues
18 shall be within thirty (30) days after the agency gives official
19 notice (see subsection (5) of this section). If the proposal requires
20 more than one (1) governmental decision that will be supported by the
21 same SEPA documents, then RCW 43.21C.080 still only allows one (1)
22 judicial appeal of procedural compliance with SEPA, which must be com-
23 menced within the applicable time to appeal the first governmental
24 decision.

25 (f) If the time limit established by statute or ordinance for
26 appealing the underlying governmental action is less than fifteen (15)
27 days, then the notice of action in RCW 43.21C.080(1) may be given by
28 publishing once within that shorter time period, in a newspaper of
general circulation in the area where the property that is the subject
of the action is located, and meeting the other requirements of RCW
43.21C.080.

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1 (g) If there is no time limit established by statute or ordinance
2 for appeal, and the notice of action provisions are not used, then
3 SEPA provides no time limit for judicial appeals. Appeal times may
4 still be limited, however, by general statutes of limitation or the
5 common law.

6 (h) For the purposes of this subsection, "a time limit established
7 by statute or ordinance" does not include time limits established by
8 the general statutes of limitation in chapter 4.16 RCW.

9 (i) (See WAC 197-11-680(4)(i) for judicial review of state agency
10 decisions in contested cases and petitions for a declaratory judgment
11 on the validity of a rule, both of which are governed exclusively by
12 the Administrative Procedure Act, chapter 34.04 RCW.)

13 (4)(5) Reserved.

14
15 (5)(6) Official Notice Of The Date And Place For Commencing An Appeal.

16 (a) Official notice of the date and place for commencing an
17 appeal must be given if there is a time limit established by statute
18 or ordinance for commencing an appeal of the underlying governmental
19 action. The notice shall include:

20 (i) The time limit for commencing appeal of the underlying
21 governmental action and the statute or ordinance establishing the time
22 limit; and

23 (ii) The time for appealing SEPA issues (thirty (30) days
24 after notice); and

25 (iii) A statement that a notice of intent is required, if a
26 notice is required under subsection (4)(d) of this section, and
27 instructions on where to send the notice and by what date; and
28

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(iv) Where an appeal may be filed.

(b) Notice is given by:

(i) Delivery of written notice to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal in question; and

(ii) Following the agency's normal methods of notice for the type of governmental action taken.

(c) Written notice containing the information required by subsection (5)(a) of this section may be appended to the permit, decision documents, or SEPA compliance documents or may be printed separately.

(d) Official notices required by this subparagraph shall not be given prior to final agency action.

Section 2. Seattle Municipal Code, Section 25.05.800, Categorical Exemptions, as amended by Ordinance 114057 is hereby amended to read as follows:

25.05.800 CATEGORICAL EXEMPTIONS.

The proposed actions contained in Part Nine are categorically exempt from threshold determination and EIS requirements, subject to the rules and limitations on categorical exemptions contained in Section 25.05.305.

(1) Minor New Construction--Flexible Thresholds.

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezone or any license governing emissions to the air or discharges to water is required. To be exempt under this section, the project must

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1 be equal to or smaller than the exempt level. For a specific propo-
2 sal, the exempt level in (b) of this subsection shall control, unless
3 the city establishes an exempt level under (c) of this subsection. If
4 the proposal is located in more than one (1) city/county, the lower of
5 the agencies' adopted levels shall control, regardless of which agency
6 is the lead agency.

7 (b) The following types of construction shall be exempt, except
8 when undertaken wholly or partly on lands covered by water or unless
9 undertaken in environmentally sensitive areas:

10 (i) The construction or location of residential structures
11 of four or fewer dwelling units, in all Single Family Zones,
12 Lowrise-One (L-1) and all Commercial zones; six or fewer units in
13 Lowrise-Two (L-2) zones; eight or fewer units in Lowrise-Three (L-3)
14 zones; and twenty or fewer units in midrise, (MR) highrise (HR) and
15 all downtown zones.

16 (ii) The construction of a barn, loafing shed, farm equip-
17 ment storage building, produce storage or packing structure, or simi-
18 lar agricultural structure, covering ten thousand (10,000) square
19 feet, and to be used only by the property owner or his or her agent in
20 the conduct of farming the property. This exemption shall not apply
21 to feed lots.

22 (iii) The construction of ~~(an)~~ the following office, school,
23 commercial, recreational, service or storage buildings~~(-)~~:

24 a) in Commercial-1 (C-1), Commercial-2 (C-2),
25 Manufacturing and Industrial zones, buildings with twelve thousand
26 (12,000) square feet of gross floor area, and with associated parking
27 facilities designed for twenty (20) automobiles(-); and

28 b) in all other zones, buildings with four thousand
(4,000) square feet of gross floor area, and with associated parking
facilities designed for twenty (20) automobiles.

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1 (iv) The construction of a parking lot designed for twenty
2 (20) automobiles, as well as the addition of twenty (20) spaces to
3 existing lots if the addition does not remove the lot from an exempt
4 class.

5 (v) Any landfill or excavation of five hundred (500) cubic
6 yards throughout the total lifetime of the fill or excavation; and any
7 fill or excavation classified as a class I, II, or III forest practice
8 under RCW 76.09.050 or regulations thereunder.

9 (vi) Mixed use construction, including but not limited to
10 projects combining residential and commercial uses, is exempt if each
11 use, when considered separately, is exempt under the criteria of
12 (i)-(v) above, unless the uses in combination may have a probable
13 significant adverse environmental impact in the judgment of an agency
14 with jurisdiction (see Section 25.05.305(1)(b)(ii)).

15 (vii) In zones not specifically mentioned in this subsec-
16 tion, the construction of residential structures of four or fewer
17 dwelling units and commercial structures of 4,000 or fewer square
18 feet.

19 * * *

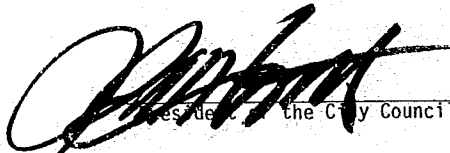
20 Section 3. Declaration of Emergency. The City Council finds
21 that Ordinance 114057 contains certain errors and omissions, some of
22 which would establish categorical exemption levels inconsistent with
23 the clear intent of the Council and that numerous copies of Ordinance
24 114057 have been disseminated to the public along with information
25 which explains the correct intent of the Council. These circumstances
26 may create confusion on the part of the public as to what size of
27 development are exempt from SEPA, unless the errors and omissions are
28 corrected as soon as possible to the August 14, 1988

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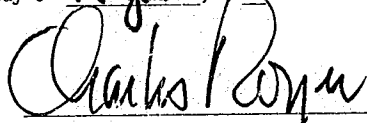
1 effective date of Ordinance 114057. For these reasons an emergency
2 exists necessitating the immediate correction of errors and omissions
3 in Ordinance 114057.
4

5 Section 4. Effective Date. In view of the emergency declared in
6 Section 3, this Ordinance shall become effective immediately upon its
7 approval by the Mayor or passage over his veto, as provided in the
8 City Charter.

9 Passed by three-fourths (3/4ths) vote of all the members of the
10 City Council the 15th day of August, 1988 and signed by me
11 in open session in authentication of its passage this 15th day of
12 August, 1988.

13 
President of the City Council

14
15 Approved by me this 15th day of August, 1988

16 
17

Mayor.

18
19 Filed by me this 15th day of August, 1988.

20
21 ATTEST:

Norward J. Brooks
City Comptroller and City Clerk

22
23 BY:

Margaret Carter
Deputy

24
25 (SEAL)

26 Published _____
27
28

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Seattle City Council

Memorandum

Date: August 5, 1988

To: Virginia Galle, Vice Chair
Land Use and Community Development Committee

From: Bob Morgan

Subject: SEPA Ordinance Corrections

Because I substituted a wrong page in the recently adopted SEPA ordinance, the ordinance would, contrary to the clearly expressed intent of the City Council, exempt from SEPA review projects up to 12,000 square feet in zones where 4,000 square feet was the intended threshold. The zones are the Residential, Midrise, Highrise, Downtown and Neighborhood Commercial zones.

The erroneous Ordinance 114057 will become effective on August 14, 1988.

A Council bill which would make the necessary corrections (and correct another non-substantive typo in the ordinance) is attached.

To avoid a period of confusion on the public's part the attached CB declares an emergency and would become effective immediately. Because of the August 14 effective date of the SEPA Ordinance 114057, this correction CB needs to be walked-on on Monday, August 8, and referred to the full council for action on August 15.

Unfortunately, the Committee Chair is excused from Full Council meetings until August 15.

I apologize for the error and ask your assistance in introducing the correction bill for referral to the full council.

cc: All Councilmembers
Nancy Fox
Debra Wilson-Mobley
Dennis McLerran
Cliff Portman

C.B. 106851

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City of Seattle

ORDINANCE 114050

AN ORDINANCE, correcting errors and omissions in Ordinance 114057 which amended policies and procedures to implement the State Environmental Policy Act (WAC 197-11-080, Ch. 25.05 of the Seattle Municipal Code, and declaring an emergency therefore.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code, Section 25.05.680, Appeals, as amended by Ordinance 114057, is hereby amended to read as follows:

25.05.680 APPEALS.

(See WAC 197-11-080, RCW 43.21C.060, 43.21C.075, and 43.21C.080).

(1) Master Use Permits. For proposals requiring a master use permit under SMC Chapter 23.76: Procedures for Master Use Permits and Council Land Use Decisions; SEPA appeal procedures shall be as provided in Chapter 23.76.

(2) Appeal to Hearing Examiner of Decisions Not Related to Master Use Permits.

(a) The following agency decisions ON PROPOSALS NOT REQUIRING A MASTER USE PERMIT shall be subject to appeal to the Hearing Examiner by any interested person (on proposals not requiring a master use permit) as provided in this subsection.

(i) Threshold determination. On appeal of a threshold determination, a party may also challenge the preliminary determination.

(ii) Adequacy of the final EIS as filed in the SEPA Public Information Center. Notice of all decisions described in this subsection shall be filed promptly by the responsible official in the City's SEPA Public Information Center.

(b) An appeal shall be commenced by the filing of a notice of appeal with the Office of the Hearing Examiner no later than the fifteenth day following the filing of the decision in the SEPA Public Information Center or publication of the decision in the City official newspaper, whichever is later. The notice of appeal shall set forth in a clear and concise manner the alleged errors in the decision. Upon timely notice of appeal the Hearing Examiner shall set a date for hearing and send notice to the parties. Filing fees for appeals to the Hearing Examiner are established in Section 2.02.125.

(c) Appeals shall be considered de novo and limited to the issues cited in the notice of appeal. The determination appealed from shall be accorded substantial weight and the burden of establishing the contrary shall be upon the appealing party. The Hearing Examiner shall have authority to affirm or reverse the administrative decisions below, to remand cases to the appropriate department with directions for further proceedings, and to grant other appropriate relief in the circumstances. Within fifteen (15) days after the hearing, the Hearing Examiner shall file and transmit to the parties written findings of fact, conclusions of law, and a decision.

(d) The Hearing Examiner is authorized to promulgate rules and procedures to implement the provisions of this Section. The rules shall be promulgated pursuant to Chapter 3.02 of this Code.

(e) If the agency has made a decision on a proposed action, the Hearing Examiner shall consolidate any allowed appeals of procedural and substantive determinations under SEPA. For example, an appeal of the adequacy of an EIS must be consolidated with an appeal of the agency's decision on the proposed action. If both appeals are allowed by ordinance.

(3) Appeal To The City Council.

(a) Any decision of the Hearing Examiner or of any other authorized official or body concerning the approval, conditioning or denial of proposals pursuant to (on proposals not requiring a master use permit) Section 25.05.660 (substantive authority and mitigation) ON PROPOSALS NOT REQUIRING A MASTER USE PERMIT may be appealed to the City Council, according to the procedures and criteria set forth in this subsection.

(b) An appeal to the City Council may be filed only by a party to the hearing before the Hearing Examiner or other authorized official or body. The appeal shall be filed with the City Clerk no later than the fifteenth day after the date the decision appealed from is filed with the SEPA Public Information Center.

(c) Any person who supports the responsible official's decision regarding the approval, conditioning, or denial of a proposal pursuant to Section 25.05.660 may become a party to the appeal hearing before the Hearing Examiner or other authorized official or body by requesting intervenor status. Written requests for intervenor status must be filed with the Hearing Examiner not less than five days before the date of the hearing. In their written request, intervenors shall indicate the grounds for their support of the decision. Intervenor status shall not be granted unless the intervenor can show that the grounds for their support of the decision as specified in their written request, individually or in support of the responsible official's decision who do not request intervenor status shall not have the right to appeal the Hearing Examiner's decision to the City Council pursuant to Subsection 3 of this Section.

(d) The Council shall accept for review those appeals which raise issues regarding: (i) Council intent with respect to interpretation of the City's substantive SEPA policies; or (ii) the sufficiency or appropriateness of mitigation or denial of a proposal.

(e) The City Council's review on appeal shall be limited to the issues identified under subsection (d), including issues of factual dispute. The Council's review shall be based upon the record from the hearing below; provided (however) that the City Council Committee may allow oral or written arguments and may permit the record to be supplemented; and, provided further, that members of the Committee or of the full Council may make a site visit.

(f) Findings of fact in the Hearing Examiner's decision and discretionary determinations regarding the sufficiency of and appropriateness of mitigation or denial shall be accorded substantial weight and shall be accepted by the Council unless clearly erroneous. The burden of establishing the contrary shall be upon the appealing party.

(g) The City Council may affirm or reverse the administrative decisions below, remand cases to the appropriate department with directions for further proceedings, or grant other appropriate relief in the circumstances. The City Council is authorized to promulgate rules to implement the provisions of this section pursuant to the Administrative Code (SMC Chapter 3.02).

(3)(4) Judicial Appeals.

(a) SEPA authorizes judicial appeals of both procedural and substantive compliance with SEPA.

(b) When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA (issues) and those which do not (non-SEPA issues). RCW 43.21C.075 establishes time limits for raising SEPA issues, but says that existing state law limitations control the appeal of non-SEPA issues. The statute contemplates a single lawsuit, but allows for the SEPA and non-SEPA portions of that lawsuit to be filed at different times.

(c) If there is a time limit established by statute or ordinance for appealing a decision, then the time limit for appealing (or portions thereof) raising SEPA issues must be filed within thirty (30) days after the agency gives official notice (see subsection (5) of this section for content of official notice).

(d) In any instance where subsection (c) of this subsection allows the SEPA portion of an appeal to be filed after the time limit established by statute or ordinance for appealing the underlying governmental action, then some judicial action must be filed within the time set by statute or ordinance. That action may be later amended to raise SEPA issues within thirty (30) days after the agency gives official notice (see subsection (5)(b) of this section). In addition, where SEPA issues were first raised during an administrative appeal, any person desiring to raise SEPA issues by judicial appeal must submit a notice of intent to do so with the responsible official of the acting agency with the time limit by statute or ordinance for appealing the underlying governmental action.

(e) The notice of action procedures of RCW 43.21C.080 may still be used. If this procedure is used, then the time limit for judicial appeal specified in RCW 43.21C.080 shall apply, unless there is a time limit established by statute or ordinance for appealing the underlying governmental action. If so, the time limit for appeal of SEPA issues shall be within thirty (30) days after the agency gives official notice (see subsection (5) of this section). If the proposal requires more than one (1) governmental decision that will be supported by the same SEPA documents, then RCW 43.21C.080 still only allows one (1) judicial appeal of procedural compliance with SEPA, which must be commenced within the applicable time to appeal the first governmental decision.

(f) If the time limit established by statute or ordinance for appealing the underlying governmental action is less than fifteen (15) days, then the notice of appeal specified in RCW 43.21C.080 may be given by publishing once within that shorter time period, in a newspaper of general circulation in the area where the property that is the subject of the action is located, and meeting the other requirements of RCW 43.21C.080.

(g) If there is no time limit established by statute or ordinance for appeal, and the notice of action provisions are not used, then SEPA provides no time limit for judicial appeals. Appeal times may still be limited, however, by general statutes of limitation or the common law.

(h) For the purposes of this subsection, "time limit established by statute or ordinance" does not include time limits established by the general statutes of limitation in Chapter 4.16 RCW.

(i) (See WAC 197-11-080(4)(i) for judicial review of state agency decisions in contested cases and petitions for a declaratory judgment on the validity of a rule, both of which are governed exclusively by the Administrative Procedure Act, Chapter 34.04 RCW.)

(4)(5) Reserved.

(5) (6) Official Notice Of The Date And Place For Commencing An Appeal.

(a) Official notice of the date and place for commencing an appeal must be given if there is a time limit established by statute or ordinance for commencing an appeal of the underlying governmental action. The notice shall include:

(i) The time limit for commencing appeal of the underlying governmental action and the time or ordinance establishing the time limit; and

(ii) The time for appealing SEPA issues (thirty (30) days after notice); and

(iii) A statement that a notice of intent is required, if a notice is required under subsection (4)(b) of this section, and instructions on where to send the notice and by what date; and

(iv) Where an appeal may be filed.

(b) Notice is given by:

(i) Delivery of written notice to the applicant, all parties to any administrative appeal, and all persons who have requested notice of decisions with respect to the particular proposal in question; and

(ii) Following the agency's normal methods of notice for the type of governmental action taken.

(c) Written notice containing the information required by subsection (5)(b) of this section may be appended to the permit, decision documents, or SEPA compliance documents or may be printed separately.

(d) Official notices required by this subsection shall not be given prior to final agency action.

Section 2. Seattle Municipal Code, Section 25.05.800, Categorical Exemptions, as amended by Ordinance 114057 is hereby amended to read as follows:

25.05.800 CATEGORICAL EXEMPTIONS.

The proposed actions contained in Part Nine are categorically exempt from threshold determination under EIS, requirements, subject to the rules and limitations on categorical exemptions contained in Section 25.05.305.

(1) Minor New Construction - Flexible Thresholds.

(a) The exemptions in this subsection apply to all licenses required to undertake the construction in question, except when a rezoning or any license requiring emission standards, subject to the rules and limitations on categorical exemptions contained in this subsection, is required. To be exempt under this section, the project must be equal to or smaller than the exempt level. For a specific proposal, the exempt level in (b) of this subsection shall control, unless the project establishes an exempt level under (c) of this subsection. If the proposal is located in more than one (1) city/county, the lower of the agencies' adopted levels shall control, regardless of which agency is the lead agency.

(b) The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water or unless undertaken in environmentally sensitive areas:

(i) The construction or location of residential structures of four or fewer dwelling units, in all Single Family Zones, Lowrise-One (1), and all Commercial zones six or fewer units in Lowrise-Two (2) zones; eight or fewer units in Lowrise-Three (3) zones; and twenty or fewer units in midrise, (MR) highrise (HR) and all downtown zones.

(ii) The construction of a barn, loading shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering ten thousand (10,000) square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(iii) The construction of (a) THE FOLLOWING office, school, commercial, recreational, service or storage buildings; (b) IN COMMERCIAL-1 (C-1), COMMERCIAL-2 (C-2), MANUFACTURING AND INDUSTRIAL ZONES, BUILDINGS with twelve thousand (12,000) square feet of gross floor area, and with associated parking facilities designed for twenty (20) automobiles; (c) AND

(d) IN ALL OTHER ZONES, BUILDINGS WITH FOUR THOUSAND (4,000) SQUARE FEET OF GROSS FLOOR AREA, AND WITH ASSOCIATED PARKING FACILITIES DESIGNED FOR TWENTY (20) AUTOMOBILES.

(iv) The construction of a parking lot designed for twenty (20) automobiles, as well as the addition of twenty (20) spaces to existing lots if the addition does not remove the lot from an exempt class.

(v) Any landfill or excavation of five hundred (500) cubic yards throughout the total lifetime of the fill or excavation; and any fill or excavation classified as a class I, II, or III forest practice under RCW 76.09.030 or regulations thereunder.

(vi) Mixed use construction, including but not limited to projects combining residential and commercial uses, is exempt if each use, when considered separately, is exempt under the criteria of (i)-(v) above, unless the use in combination creates a probable significant adverse environmental impact in the judgment of an agency with jurisdiction (see Section 25.05.305(4)(ii)).

(vii) IN ZONES NOT SPECIFICALLY MENTIONED IN THIS SUBSECTION, THE CONSTRUCTION OF RESIDENTIAL STRUCTURES OF FOUR OR FEWER DWELLING UNITS AND COMMERCIAL STRUCTURES OF 4,000 OR FEWER SQUARE FEET.

Section 3. Declaration of Emergency. The City Council finds that Ordinance 114057 contains certain errors and omissions, some of which would establish categorical exemption levels inconsistent with the clear intent of the Council and that numerous copies of Ordinance 114057 have been disseminated to the public along with information which explains the correct intent of the Council. These circumstances may create confusion on the part of the public as to what size of development are exempt from SEPA, unless the date of Ordinance 114057. For these reasons an emergency exists necessitating the immediate correction of errors and omissions in Ordinance 114057.

Section 4. Effective Date. In view of the emergency declared in Section 3, this Ordinance shall become effective immediately upon its approval by the Mayor or passage over his veto, as provided in the City Charter.

Passed by three-fourths (3/4ths) vote of all the members of the City Council the 15th day of August, 1988, and signed by me in open session in authentication of its passage this 15th day of August, 1988.

SAM SMITH,

President of the City Council.

Approved by me this 15th day of August, 1988.

CHARLES ROYER,

Mayor.

Filed by me this 15th day of August, 1988.

Attest: NORWARD J. BROOKS,

City Clerk and City Clerk.

(Seal) By MARGARET CARTER,

Deputy Clerk.

Notation ordered by NORWARD J. BROOKS, Controller and City Clerk.

(Bold face denotes deletion.)

Date of official publication in Daily Journal of Commerce, Seattle, August 18, 1988.

(C-06-X)

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

C-606-X

Affidavit of Publication

STATE OF WASHINGTON
KING COUNTY—SS.

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below

stated period. The annexed notice, a
Ordinance No. 114090

was published on August 18, 1988

R. J. Sullivan
Subscribed and sworn to before me on

August 18, 1988

W. M. Summers
Notary Public for the State of Washington,
residing in Seattle.

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